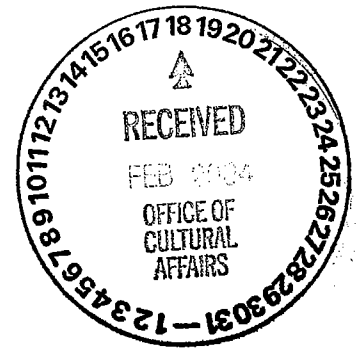


February 16, 2004

BALLET SAN JOSE

S I L I C O N V A L L E Y



Mr. Lawrence Thoo
Arts Program Director
Office of Cultural Affairs
City of San Jose
365 South Market St.
San Jose, CA

Dear Lawrence,

Based on your e-mail dated February 6, 2004, regarding our disqualification for the Operating Grant Program, Ballet San Jose petitions the City for an exemption. This exemption is based on the requirements that address access for the disabled using our elevator.

The Ballet's 40 North First Street offices has a perfectly functioning elevator. It is reportedly the oldest fully functioning elevator in San Jose and as such holds a certain historic distinction. (The building is on the historic register of the City of San Jose.) The only reason that it is not currently operating is that the State of California cited the elevator for not being up to current standards. After several years of review and many thousands of dollars of Ballet investment in upgrades they finally deemed it unable to achieve modern standards and pulled the power switch and locked the elevator room to prevent its use.

What was wrong with this elevator that prompted this action? The violation that was cited was not unsafe operations. It was that under current law an elevator must lift a particular weight based on the square footage of the cab. For the elevator in our building that would be 2,000 pounds. This elevator was built prior to that standard and was never intended to lift more than 1,000 pounds. We installed new control equipment and added a safety phone and redid certain lighting conditions as per the State's rulings. We paid for an expensive weight test and determined that even today, 70-80 years after it was built, it was still safe to carry 750-800 pounds. When it goes over limit, as it has a few times, the brakes lock in and it could never fall. (Those brakes were overbuilt, for in the early part of the century the fear of falling in elevators outweighed the fear of lifting too much). When we limit how many people or how much material we put in the elevator, it has worked perfectly fine. It is currently out of service due to the State not waiving a modern standards act.

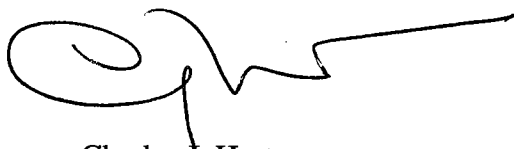
There is a studio on the ground floor that could accommodate handicapped access. The Costume Shop is on the mezzanine but much of their work is also done on the ground floor so a seamstress could work there, and the music library is connected to the phones and network so administrators could also work on the first floor.

A couple of years ago the City passed a ruling stating that the retail core was so essential to the downtown that our school and operations could not operate on the first floor of our building, thus precluding us from moving more operations there. They recanted and stated that we could be an exception as we have retail type traffic due to the box office and the school parents, but that was not their first response when we asked them for a ruling on this topic.

Times are difficult and it is not practical to revisit the total use of this building at this time. The Ballet can demonstrate that it has invested, long before the City mandated it, to make this building and elevator rationally accessible. It can accommodate all comers who wish to come now, albeit not in perfectly equal surroundings. It is too high a standard to impose on the Ballet for its fractional, albeit essential, support to mandate every closet and studio be accessible for eligibility. The Ballet has shown good faith efforts and request the City return this item for indeterminate study. Andrew Bales, the former Executive Director, would be happy to accompany me as he worked directly on both the City projects and the elevator, and he has first hand knowledge of the circumstances.

Since then the building owner has assigned the elevator upkeep to the Ballet. Contractually the Ballet needs to work out a solution itself. At present, the estimates to meet the new elevator standards range from \$150,000 to \$300,000 for the upgrades. We would appreciate your help in resolving this situation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Charles J. Hart', with a long horizontal line extending to the right.

Charles J. Hart
Chief Executive Officer